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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,582	02/12/2002	Masayoshi Yoshino	KJOI:021	6973

7590 02/18/2004

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EXAMINER

MICHALSKY, GERALD A

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 02/18/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/074,582

Applicant(s)

YOSHINO ET AL.

Examiner

Gerald A. Michalsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09 January 2004 has been entered.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Franz et al. The preamble of claims 1-3 merely relates to intended use and is given no weight in an apparatus claim. See Figure 1 of Franz et al. Nozzle pole piece 30 of Figure 1 of Franz et al. is read as a "nozzle portion". Lower housing 14 of Figure 1 of Franz et al., exclusive of nozzle pole piece 30, is read as a "valve body". The horizontal portions of the supply and outlet passages above the vertical supply passage 36 and above the vertical outlet passage 40 are read as "a fluid supply passage and a fluid outlet passage substantially arranged in-line". In the disclosure in Figure 1 of applicants' specification, only a portion of the valve body 10 is shown. As indicated by the broken edge shown at the left end and the right end of Figure 1 herein, the valve body 10 herein extends beyond the portions of the valve body 10 shown. There is nothing in the disclosure

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herein to preclude passages 11 and 14 herein from extending vertically, or in any other direction in the area beyond that shown in the view of Figure 1 herein. In the same manner, the horizontal portion of the supply and outlet passages of Franz et al., exclusive of the vertical portions, may be read as the recited fluid supply and fluid outlet passage. The vertical passage in nozzle pole piece 30 of Figure 1 of Franz et al. is read as a "through passage". The un-numbered venting port for nozzle 32 of Figure 1 of Franz et al. is read as a "drain port". Either the reduced diameter bore of Franz et al into which the restrictor 38 extends, or the horizontal passage in nozzle pole piece 30 of Figure 1 of Franz et al, is read as an "orifice port". The reduced diameter bore of Franz et al into which the restrictor 38 extends is of smaller diameter than the portion of the bore in which the O-ring of restrictor 38 is located. The horizontal passage in nozzle pole piece 30 of Figure 1 of Franz et al is of smaller diameter than the portion of the bore in which the O-ring of restrictor 38 is located.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald A. Michalsky whose telephone number is (703) 308-1049. The examiner can normally be reached on M-F 5:30 AM - 2 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (703) 308-1272. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gerald A. Michalsky", with a stylized flourish extending to the right.

Gerald A. Michalsky
Primary Examiner
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